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SENSITIVE
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WHA FOR DAS REYNOSO
WHA/CAR FOR (V.DEPIRRO, W.SMITH, J.MACK-WILSON)
L/LEI (CHOLLAND) (AKLUESNER)
INR/IAA (GBOHIGAN)
JUSTICE FOR OIA (PPETTY)
TREASURY FOR ERIN NEPHEW
INR/RES (RWARNER)
CENTRAL AMERICAN CARIBBEAN BASIN COLLECTIVE

E.O. 12958: N/A
TAGS: [PHUM](#) [HURI](#) [ECON](#) [OFDP](#) [OVIP](#) [PGOV](#) [SCUL](#) [SNAR](#) [SOCI](#) [KCOR](#)
KCRM, UN, UNGA, UNHRC-1, JM, XL
SUBJECT: JAMAICA: UN SPECIAL RAPPORTEUR CONDEMNS PRISON CONDITIONS,
FINDS LITTLE EVIDENCE OF SYSTEMIC TORTURE

Summary:

1. (U) Jamaica's detention facilities are "inhumane" and "reflect a complete disrespect for human dignity," according to Manfred Nowak, the United Nations (UN) Special Rapporteur on Torture and Other Cruel and Inhuman Treatment. Nowak, who had been invited by the Government of Jamaica (GOJ) to assess conditions in the nation's jails, prisons, and remand centers, also noted that lengthy pre-trial detentions are too common while juvenile offenders are too often housed in adult facilities. Although he found no evidence of officially-sanctioned torture, Nowak described a system in which corporal punishment against prisoners was common. End Summary.

Prebriefings for GOJ and Diplomatic Community

2. (SBU) Manfred Nowak, an Austrian human rights lawyer and professor at the University of Vienna operating under a mandate from the UN Secretary General, visited Jamaica with a team from the UN's High Commission for Human Rights from February 12-19 on the invitation of the GOJ. In a preliminary briefing to representatives of the diplomatic community prior to his February 19 press conference in Kingston, Nowak told those in attendance that he had debriefed representatives of the GOJ on his findings that morning, including representatives of the Ministry of National Security (MNS), the Ministry of Foreign Affairs and Foreign Trade (MFAFT), and the Ministry of Justice (MOJ). The UN investigative body had been invited to Jamaica on a fact-finding mission to investigate allegations of torture, and had received the full cooperation of the GOJ. Nowak and his colleagues had requested and received complete freedom of movement in visiting facilities, to which they had arrived unannounced, and had been allowed to speak with whomever they wished. Once their preliminary report is completed, it will be submitted to the GOJ for review and comment then submitted to the UN High Commission for Human Rights in October 2010.

3. (SBU) Nowak noted that he had found no evidence of widespread or

state-sanctioned torture - the intentional delivery of pain for a specific purpose - in Jamaica's detention facilities. Nevertheless, Nowak condemned the general level and atmosphere of violence he had observed in the facilities he'd visited, as well as the violent methods employed by law enforcement and wardens against prisoners and detainees. Having visited a number of penal institutions, including facilities for men, women, and juveniles, Nowak described the conditions he'd observed as reflecting "a complete disrespect for the human dignity of persons in conflict with the law." Nowak's report paints a picture of a penal system characterized by repression, violence, corporal punishment, dank and dehumanizing conditions, and in which drugs, cell phones, weapons, and women were easily available to inmates for a price. Perhaps most disturbingly, Nowak noted, was that in many cases minor offenders were housed in the same facilities as hardened adult criminals.

"Degrading Conditions" in Police Lockups

14. (SBU) Under Jamaican Qw, suspects arrested by the Jamaica Constabulary Force (JCF) on suspicion of having committed a crime are to be held for no more than 24 to 48 hours before seeing a judge, at which point they should be released on bail pending trial, transferred to a remand center to await trial, or released for lack of evidence. In practice, however, many spend months or

even years in such facilities due to administrative backlogs and an overburdened judiciary. In the most egregious cases, suspects have been known to have become "lost in the system" and to spend as many as five years in lock-ups or remand centers awaiting trial (Note: In one case, a 64 year old charged with a 2007 domestic dispute with his son had spent two years in a Spanish Town lock-up awaiting trial; the clerk of courts had advised that judicial proceedings were on hold pending the receipt of a medical certificate from the Kingston Public Hospital. End Note). Nowak described conditions at such lock-ups as "degrading," with as many as three prisoners housed in cells designed for one, poor ventilation, inadequate lighting, insect and rodent infestations, and few or no toilet facilities. The JCF personnel in charge of these lock-ups were not trained or equipped to maintain long-term facilities.

15. (SBU) Conditions at remand centers and prisons were somewhat better, Nowak noted, with more space and better lighting, although they were still generally inadequate. Food and water quality was poor, and Nowak described high levels of frustration among the prisoners and remanded suspects with whom he met over what they perceived as "arbitrary rules" imposed by wardens. In most cases, Nowak found that detainees had no knowledge of or trust in any complaints mechanisms available to them.

Allegations of Brutality in Horizon Uprising

16. (SBU) At Kingston's Horizon Remand Centre, where inmates rioted on February 9, 2010, over water shortages, JCF and Jamaica Defence Force (JDF) personnel called in were accused of using excessive force in quelling the disturbances. Afterwards, the UN team collected forensic evidence and interviewed those injured in the riots. Derek Pounder, a British physician and forensic specialist on Nowak's team, reported that several Horizon inmates displayed "defensive-type" injuries, typically serious bruising or fracturing to the mid-forearms, suggesting that they'd been beaten while defenseless and attempting to protect their heads and torsos. Several inmates with whom the UN team met alleged that the Horizon wardens had used metal pipes to beat prisoners during the uprising, indicating "the use of force [that] can only be described as excessive." Nowak attributed the uprising to frustrations arising from the harsh conditions and humiliations inflicted on inmates by wardens, and suggested that the Horizon wardens, rather than

attempting to restore order, had instead used the uprising as an opportunity to take out their frustrations and to inflict punishment on troublesome inmates. Afterwards, representatives of the Office of the Public Defender (OPD) were denied permission to enter the facility to meet with inmates, and were only subsequently allowed to do so when Prime Minister (PM) Bruce Golding ordered the center's administration to comply. (NOTE: Some media reports suggested that the uprisings were also fueled by new security measures to curtail smuggling of contraband into the facility. End Note).

Prisons Overcrowded and Outdated

17. (SBU) The UN team also visited Kingston's Tower Street Prison, built in the 19th century to house 650 prisoners but now housing as many as 1700. Nowak described Tower Street as not conducive to the correctional and rehabilitation objectives of modern prison facilities, and not suitable for retrofitting. In Tower Street as well as other prisons, garrison "dons" operate criminal enterprises with impunity and often exercise more power than the wardens themselves. Wardens and guards also may be drawn into such criminal networks, serving as conduits for drugs, cell phones, weapons, ganja, and even women to inmates. Nevertheless, despite overcrowding and an atmosphere of violence, corruption, and arbitrariness, Nowak noted that the prison's management was "doing

their best" under difficult circumstances.

18. (SBU) Dr. Pounder pointed out that 147 of Tower Street's 1600 inmates suffered from mental illnesses because there were no secure psychiatric facilities in which to house and treat them. Instead, a part-time psychiatrist visits just three times a week. With such inadequate treatment programs in the harrowing conditions described, it is virtually certain that mentally-ill inmates will see their conditions worsen during their incarcerations.

Better Conditions in Women's Detention Facilities

19. (SBU) The UN team found conditions at lock-ups, remand centers, and prisons for women to be generally better than those for men. Nowak described the Fort Augusta Adult Correctional Centre, a former British fort constructed in the 1740s that now houses as many as 280 female inmates, as a much cleaner and more humane institution, although the failure to separate juveniles from adult prisoners during the day remains problematic. These findings, Nowak noted, demonstrated that improving Jamaica's detention facilities was possible so long as there was the political will to do so.

Mixed Findings in Juvenile Centers

110. (SBU) In May 2009, a fire broke out at the overcrowded Armadale Juvenile Correctional Centre when police threw a tear gas canister into a locked dormitory to quell an inmate uprising. Seven girls died and dozens were injured as a result of the fire, and Armadale was subsequently closed. Nevertheless, Nowak described Armadale's replacement, Diamond Crest near Manchester, as a "best practices" model with good rehabilitation facilities. (NOTE: Nowak had not yet visited Armadale, but noted that the use of tear gas to control children had been clearly inappropriate. The GOJ appointed a Commission of Enquiry to investigate the Armadale fire, and its report is due in the coming days. Portions of the report have been leaked to the media and the inquiry already has resulted in the resignation of Alison Anderson-McLean, the embattled head of the Child Development Agency. End Note).

111. (SBU) However, Nowak painted a much different picture in regard

to juvenile facilities for boys. At the St. Andrew Juvenile Centre for Boys in Stony Hill, near Kingston, Nowak described a "disastrous" and "disturbing" system of repression and corporal punishment in which the boys, most of whom were between the ages of 12 and 17, were "never allowed to leave the buildings, depriving them of any recreational activities in the open air." Under Jamaican law, "uncontrollable" children may be remanded to correctional facilities for up to three years, although Nowak noted that the GOJ's legal definition of "uncontrollable" was weak.

Recommendations

¶12. (SBU) Nowak's team made a number of recommendations to the GOJ, many of which he felt had been positively received, and encouraged the international donor community to support the GOJ in its reform efforts. Among these recommendations were that :

a. Suspects should be held in police custody for no more than the statutory 24-48 hours before being released on bail or sent to remand centers;

b. The GOJ should build and utilize more remand centers, as well as administer them under an authority separate from the JCF or the Department of Corrections;

c. No juveniles should be housed in detention centers for

adults;

d. Establishment of an independent authority to investigate allegations of JCF misconduct;

e. Reforms in correctional and judicial systems.

Analysis

13 (SBU) Although not unexpected, the UN Special Rapporteur's critiques of Jamaica's detention centers were harsh and quite damning. Nowak attributed the failure to find evidence of torture to two related factors: the professionalism of the Jamaican judicial system, which he contends would refuse to accept evidence and confessions collected through torture; and the propensity for extrajudicial killings by the JCF, by which a police officer with insufficient evidence to charge a suspect with a crime might be more inclined to murder said suspect than to elicit evidence through torture that might then be disallowed in court. Nevertheless, Nowak recommended that the GOJ criminalize the practice under domestic law and ratify the UN Convention Against Torture and Other Cruel, Degrading Treatment or Punishment.

¶14. (SBU) Nowak also urged the GOJ and society as a whole to take steps to de-escalate the "cycle of violence" that both drives, and is exacerbated by, Jamaica's pervasive atmosphere of violence. With one of the highest murder rates in the world, escalating levels of violent crime, and rising incidences of extrajudicial police killings, violence is ever present in Jamaica's neighborhoods, news media, and popular culture. In response, a frustrated public demands harsher responses and reprisals from law enforcement and government. Parliamentary proposals to institute flogging and to impose the death penalty are popular with voters (NOTE: Jamaica's death penalty, last imposed in 1988, has proven difficult to implement given a Privy Council ruling that limited prisoners to no more than five years on death row. Given the slow pace of the Jamaican judicial system, death row inmates can routinely "time out" through well-timed appeals. End Note), while Minister of National Security Dwight Nelson drew choruses of support in 2009 for his denunciations of human rights groups and public support of JCF officers accused of extrajudicial killings (NOTE: Under pressure from the Prime Minister and the diplomatic community, Nelson subsequently apologized for his comments. Reftel ¶A. End Note). However, Nowak maintains that such rhetoric and such policies only result in further escalation of the violence that has proven so devastating to Jamaican society. End Analysis.

